

FILED

United States Court of Appeals
Tenth Circuit

UNITED STATES COURT OF APPEALS

FOR THE TENTH CIRCUIT

December 8, 2021

Christopher M. Wolpert
Clerk of Court

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

CARLOS HERRERA,

Defendant - Appellant.

No. 19-2126
(D.C. No. 2:15-CR-04268-JB-25)
(D. N.M.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

DANIEL SANCHEZ, a/k/a Dan Dan,

Defendant - Appellant.

No. 19-2141
(D.C. No. 2:15-CR-04268-JB-18)
(D. N.M.)

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

ANTHONY RAY BACA, a/k/a Pup,

Defendant - Appellant.

No. 19-2195
(D.C. No. 2:15-CR-04268-JB-21)
(D. N.M.)

ORDER

These matters are before the court on the Unopposed Joint Motion to Supplement the Record, which was filed by the appellants in these matters (the “Motion”). The appellants seek leave of court to supplement the record on appeal with four categories of items: (1) documents available on the district court docket; (2) certain trial exhibits, which are a combination of video, audio, and PDF files; (3) two exhibits introduced at a pretrial hearing that are likely not capable of being compressed enough to be filed using the court’s electronic filing system; and (4) four audio files attached to one defendant’s motion for a new trial. Upon consideration, the Motion is granted, as provided in this order. Each category will be addressed separately below.

1. Documents Available on the District Court Docket. On or before December 20, 2021, the Clerk of the U.S. District Court for the District of New Mexico shall prepare and transmit to the clerk of this court a supplement to the record on appeal consisting of the items identified in the Motion, a copy of which is attached to this order.

2. Trial Exhibits. When the court directs the appellants to send hard copies of the reply brief, the appellants shall send the trial exhibits listed in the Motion with the reply brief. Because the video, audio, and PDF files cannot be converted to a format accepted by the court’s electronic filing system, *see generally* 10th Cir. R. 30.3(A), the court grants an exemption from filing the trial exhibits electronically. The appellants may use a CD/DVD format or a thumb drive to store the trial exhibits. But the appellants should note that neither the media nor the files on the media may be password protected without prior authorization from the clerk and the files must be in a commonly available format easily accessible by court personnel. The media (or envelope containing the media) must

be plainly marked with the case numbers, case names, the parties submitting the materials, and that they are part of the supplemental record.

3. Pretrial Hearing Exhibits. The appellants shall follow the same advice provided in Category 2 above for the PDFs identified in the Motion. The PDFs need not be submitted to the court electronically, but may be submitted on a disc or thumb drive with the hard copies of the reply brief when directed by the court. If feasible, the appellants may submit the PDFs on the same media with the items in Category 2, so long as the media is labeled appropriately, but they may submit them separately if technologically necessary or convenient.

4. Audio File Exhibits from Defendant Baca's Motion for New Trial. Because these audio files apparently relate to only one of the three appellants, these files should be transmitted to the court separately from either the Category 2 or Category 3 items. Like the other materials that cannot be converted to a format acceptable with our electronic filing system, the post-trial motion exhibits identified in the Motion need not be filed electronically and can be submitted by disc or thumb drive with the hard copies of the reply brief at the appropriate time. Clear labeling is advised.

Entered for the Court
CHRISTOPHER M. WOLPERT, Clerk

by: Lara Smith
Counsel to the Clerk